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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,913	09/17/2003	Hitoshi Komatsu	008312-0305989	2646
909	7590	12/17/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			HESS, DANIEL A	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			2876	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,913	Applicant(s) KOMATSU, HITOSHI	
	Examiner Daniel A Hess	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 17 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☒ Claim(s) 1-12 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's response of 11/9/2004, which has been placed in the file of record.

Response to Arguments

Applicant's arguments filed 11/9/2004 have been fully considered but they are not persuasive. The Examiner carefully reviewed figure 3 of Miyamoto (US 6,070,804) as well as the accompanying discussion, and it is apparent to the Examiner that the system and process shown in figure 3 is effectively the same system and process as shown in figure 3. Step s2 is clearly a check prior to writing, s7 is a writing step, and step s8 is a check after writing. This check is not "during execution of a writing of data" as applicant has argued on page 15 of the 11/9/04 response, but after writing s7, as figure 3 makes clear.

For a discussion of the voltage being compared which shows that it is the same voltage as discussed in the claim, see column 5, lines 50-65 of Miyamoto: here it is clear that the system is checking a voltage which is supplied by a power wave from an external device (column 5, lines 20-25), to determine if writing and deleting "can be securely executed."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Miyamoto (US 6,070,804).

Miyamoto teaches a card system having all of the elements and means as recited in claim

1. For example, Miyamoto teaches the following:

See entire document, but especially figure 3; column 6, line 40 to column 7, line 25. A voltage detecting system detects a voltage level due the incoming signal, which supplies power to the card. A writing system is present. The system determines both prior to (at step s2) and after (at step s8) writing, whether the power level -- as judged by the detected voltage -- is sufficient. If the answer is that it is not sufficient, then the system will be informed of such at s5 or s12 and a new attempt will be made to perform the write operation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto (US 6,070,804). Some of the teachings of Miyamoto have been discussed above, re claim 1.

Miyamoto teaches both a first checking section (s2) for checking voltage prior to writing and a second checking section (s8) for checking voltage after writing. In each case, insufficient voltage will trigger a repeated attempt at writing.

Miyamoto fails to explicitly teach waiting for a set period of time before attempting a second write.

However, it is clear that some type of pause only makes sense, since if power is insufficient for writing at a time t , it is unlikely that power will suddenly become sufficient with no elapse of time. In electronics, delays before repeated attempts are typical. The motivation is to wait for conditions to be different.

Re claim 3: Miyamoto fails to explicitly teach termination of the loop after a set amount of time has passed. However, it is common in electronics that systems “time out” – this goes all the way back to, for example, early Unix logins, wherein access failure and/or lapse of time resulted in an end of the login attempt. The motive for this can be to save power and increase the security of the card.

Re claim 4: Delays in software loops are normally simply variables.

Re claims 5 and 6: Usually, computer software loops are not designed to run forever but have a timeout conditions. As an example of the present limitation, it has long been common, such as with computer logins, to permit only a fixed number of attempts before terminating.

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An infinite loop would result in a piece of hardware essentially freezing or locking up or not doing anything at all.

Re claim 7: See discussion re claims 1 and 2 above.

Re claim 8-11: See discussion re claims 3 to 6, respectively.

Re claim 12: The first portion of the claim, discussing the external device, describes exactly the host system of reference 2 in figure 4 of Miyamoto. The second portion of the claim is similar to claim 2, above, and is addressed by the discussions of claims 1 and 2, above. The final portion of the claim corresponds to claim 3, which has been discussed above.

Re claim 17: The hardware of the external device and the card are shown clearly in references 2 and 25 respectively of figure 4 of Miyamoto. The remainder of the claim parallels claims 2 and 3, which have been discussed above.

Allowable Subject Matter

Claims 22-29 are allowed.

This claims pertain to subject matter which had been indicated as allowable but objected to as needing to be written in independent form in the Office action mailed 8/9/2004. These claims have been rewritten in independent form and hence are allowed.

Conclusion

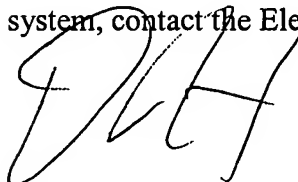
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DH

DANIEL STCYR
PRIMARY EXAMINER

